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Application/Control Number: 10/~~054,~~223

Application Filed: January 22, 2002

Applicant: Ray M. Alden

New Title: Segmented distribution headlight system, method, and apparatus

Examiner/GAU: Guiyoung Lee/2875

Raleigh, NC, September 21, 2004, Tuesday

APPEAL BRIEF for Notice of Appeal Filed September 4, 2004

Assistant Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

Sir or Madam:

This Appeal Brief is filed in conjunction with the Notice of Appeal filed September 4, 2004.

1) Real Party of Interest

This document has been prepared by Applicant Pro Se who is the real party of interest and whose signature is affixed hereto.

2) Related Appeals and Interferences

Presently no related appeals or interferences are known to the Applicant. In furtherance of the prosecution of the present application, the Applicant has filed a Petition to enable Applicant to obtain a copy of abandoned Provisional Application 60/339,762 filed 12/10/01 which was cited as prior art and formed the basis of a Final Rejection Office Action. To date, Applicant has not seen this cited prior art and therefore has been unable to form a meaningful response to said Final Rejection Office Action.

3) Status of Claims

Claims 1 though 57 have been cancelled by the Applicant.

Claims 58 through 77 have been rejected in a Final Office Action. The Notice of Appeal filed September 4th and this Appeal Brief comprise an Appeal for allowance of Claims 58 though 77.

4) Status of Amendments

No amendments have been filed subsequent to the Final Office Action in the present application.

5) Summary of Invention

Claim 58 is illustrated by line 12 through line 28 on page 5 together with Figure 2. Claim 58 claims "A method of producing concurrent higher intensity illumination sectors where no vehicles are present" (such as 65 of Figure 2 and the other beams emanating from 61 with the exception of 63) "and at least one lower intensity illumination (such as 63 of Figure 2) where a first sensed vehicle is present (such as 41 of Figure 2). Claim 58 includes steps comprising "providing a vehicular headlight system adapted to direct at least two distinct illumination intensities toward each of a plurality of individually controlled illumination sectors" (such as those of Figure 2), "providing a vehicle sensor for sensing where said first sensed vehicle is present" (such as 51 of Figure 2), "providing at least one controlled light modulator within said vehicular headlight system" such as 119 of Figure 5 and 127 of Figure 6), "providing a controller which uses input from said vehicle sensor to control said at least one controlled light modulator within said vehicular headlight system" (such as 55 of Figure 2), "whereby said controller causes said at least one controlled light modulator to direct a lower intensity illumination toward a sector where said first sensed vehicle's presence is sensed" (such as 63 of Figure 2), and "whereby said vehicular headlight system concurrently directs higher intensity illumination toward at least one sector to the right side of said sensed vehicle" (such as the depicted unnumbered beams emanating from the 61 of Figure 2), and "directs higher intensity illumination toward at least one sector to the left side of said sensed vehicle" (such as 65 of Figure 2).

Claim 59 includes the steps of 58 with the further step that a lower intensity illumination is directed to a second sensed vehicle while higher intensity light is concurrently directed between said first vehicle and said second vehicle. This step can be illustrated can be illustrated with an understanding of the independently controlled zones of Figure 5 and of

specifications including line 6 on page 8 (describing a light from each lighting element going into a specified portion of the light distribution area), line 5 of page 8 (specifying that the lights are individually controllable), line 1 of page 8 (specifying that the CPU and logic (of Figure 4) control the individually controllable lights).

Claim 60 includes the steps of 58 with the further specification that the provided light modulator comprise at least one element selection from the group consisting of; "illumination emitter" (such as 119 of Figure 5), "illumination filter" (such as 127 of Figure 6), or "illumination steerer" (such as 141 of Figure 8).

Claim 61 includes the steps of 58 with the further step of providing a first plurality of independently controlled light modulators within said vehicular headlight system which are individually controlled to each direct a lower intensity illumination toward said first sensed vehicle (such as the multiple zones comprising the 75 area of Figure 3 relating to the "left segmented headlight" and described in line 16 of page 6.

Claim 62 includes the steps of 61 with the further step of providing a second plurality of independently controlled light modulators within said vehicular headlight system which are individually controlled to each direct a lower intensity illumination toward said first sensed vehicle (such as the multiple zones comprising the 81 area of Figure 3 relating to the "right segmented headlight" and described in line 3 of page 7.

Claim 63 includes the steps of 61 with the further specification that the provided light modulator comprise at least one element selection from the group consisting of; "illumination emitter" (such as 119 of Figure 5), "illumination filter" (such as 127 of Figure 6), or "illumination steerer" (such as 141 of Figure 8).

Claim 64 includes the steps of 61 with the further specification that said first plurality of individually controlled light modulators are with a single headlight (such as 119 and similar emitting elements of Figure 5, the filter elements in 127 of Figure 6, and the illumination steering elements including 141 and similar elements of Figure 8).

Claim 65 includes the steps of 58 with the further specification that that a headlight comprise at least two individually controlled filter element (such as the 131 of Figure 6 and lines 16 through 18 on page 8).

Claim 66 includes the steps of 58 with the further specification that that a headlight comprise at least two individually controlled illumination steering elements (such as the 149 of Figure 10 and lines 19 through 26 on page 9).

Claim 67 includes the steps of 58 with the further specification that that a headlight comprise at least two individually controlled illumination emitting elements (such as the 119 of Figure 5 and lines 26 through 28 on page 7).

The support for claim 68 is identical to that described under the above summary of claim 58.
The support for claim 69 is identical to that described under the above summary of claim 59.
The support for claim 70 is identical to that described under the above summary of claim 60.
The support for claim 71 is identical to that described under the above summary of claim 61.
The support for claim 72 is identical to that described under the above summary of claim 62.
The support for claim 73 is identical to that described under the above summary of claim 63.
The support for claim 74 is identical to that described under the above summary of claim 64.
The support for claim 75 is identical to that described under the above summary of claim 65.
The support for claim 76 is identical to that described under the above summary of claim 66.
The support for claim 77 is identical to that described under the above summary of claim 67.

6) Issues

The prior art relied upon for the rejection in the Final Office Action has a filing date subsequent to that of the present application.

Prior to the cited prior art filing date, the present application was disclosed to the assignee of the cited prior art.

Provisional application is suspicious in light of established filing patterns of the cited provisional prior art assignee.

Secrecy of cited provisional application creates unintended and impossible burden upon applicant.

7) Grouping of Claims

The claims in this case should be individually considered based upon their individual merits in light of prior art that can be documented as having priority over the present application. To date, the present applicant is not able to view cited provisional application 60/339,762 filed 12/10/01 nor therefore evaluate novelty over the cited provisional application nor accordingly prepare definitive claims distinguishing the present invention over the cited provisional application. Until such time as the cited prior art can be viewed and evaluated by the present Applicant, each claim should be evaluated on its merits and individual claims should not be construed as being representative of one or more groupings of claims to form the basis of rejection of one or more claims.

8) Argument

The prior art relied upon for the rejection in the Final Office Action has a filing date subsequent to that of the present application. Specifically, application number 10/235,476 (Stam) was filed September 5, 2002 while the present application (Alden) was filed January

22, 2002. The Stam application claims priority of provisional application 60/339,762 (Stam) filed on December 10, 2001. The Stam patent application is not a conversion of the Stam provisional application and therefore may contain substantial new matter not entitled to a priority date earlier than September 5, 2002. No evidence has been provided to establish whether the Stam provisional application has any art of relevance to the prosecution of Alden. The PTO can remedy this problem by favorably responding to a Petition filed by Applicant to obtain a copy of Provisional Application 60/339,762 filed 12/10/01 and thereby enabling Applicant to see novelty contained therein relative to the present applciaiotn.

Prior to the cited prior art filing date, the present application was disclosed to the assignee of the cited prior art. Moreover, the assignee of the Stam application and employer of Stam is Gentex Corporation. The present application was disclosed to Gentex Corporation in June 2002 (see copy of Disclosure Summary on Gentex's Intellectual Property Evaluation Policy dated June 20th and letter from Gentex dated September 17, 2002 referencing said disclosure). It is highly suspicious that the Stam Application dated September 5th, 2002 includes art closely resembling that which was disclosed to them in June 2002 while also being a departure from the numerous "headlamp" related patent applications filed by Stam prior to the Stam September 5th, 2002 Application.

Provisional application is suspicious in light of established filing patterns of the cited provisional prior art assignee. Searching the USPTO today using "Stam" in the inventor field, and "headlamp" in the title field yields results including 8 issued patents and 6 published patent applications. Of all of these applications, only one relies upon an earlier filing date of a provisional application and that is the one referenced herein. Although this is only anecdotal, one has difficulty constructing a rationale for a well funded company with an IP strategy at its core such as Gentex to file any provisional applications. This creates suspicions about the validity of the provisional application. An examination of the file wrapper of provisional

application 60/339,762 (Stam) filed on December 10, 2001 may reveal that it can not establish priority for the art described in Alden.

Secrecy of cited provisional application creates unintended and impossible burden upon applicant. It will be well known to those who read this document that the provisional patent application process was established as part of harmonization of our patent system with that of other countries. Specifically, the provisional application vehicle was provided to enable small entities to establish a priority date at relatively low cost while they continue to develop their invention with minimized risk of a large entity stealing their idea for exploitation in the US or especially in other countries having first to file patent laws. When the art within the provisional application is relied upon to establish priority of a full application that has been published, maintaining the secrecy of the provisional application makes no sense and creates a difficulty that was apparently overlooked by both the enabling legislation and the administrative law implementation and practice by the USPTO. No one is served by maintaining the secrecy of a provisional application after full applications arising therefrom are by law published in the public domain. Thus the enabling law and administration by the USPTO creates an unintended adversity for small entity applicants such as the present applicant. Specifically in this case, maintaining the secrecy of the provisional application and using its priority date against a small entity applicant while giving that applicant no ability to see the art cited against them is especially onerous.

Accordingly, the Applicant has filed a Petition to gain a copy of the cited Provisional Application which cites the following Authority For Petition: "Per 37 CFR 1.14(a)(1)(iv), unpublished abandoned applications (including provisional applications) that are identified or relied upon in a U.S. patent application publication, are available for public access. Further, per 37 CFR 1.14(a)(1)(v), unpublished abandoned applications (including provisional applications) whose benefit is claimed in a U.S. patent application publication, are available for public access. Further still, per 37 CFR 1.14(a)(1)(vi), unpublished abandoned applications (including provisional applications) that are incorporated by reference in a U.S. patent application publication, are available for public access. See also MPEP Sections 103(III), (IV), and (VI)."

(i)Rejections under 35 U.S.C. 112, first paragraph

A) Subject matter under claims

Not Applicable

B) Enable persons skilled in the art to make and use subject mater

Not Applicable

C) Best mode contemplated

Not Applicable

(ii)Rejections under 35 U.S.C. 112, second paragraph

Not Applicable

(iii)Rejections under 35 U.S.C. 102

The Final Office Action rejects claims 58-77 under U.S.C. as being anticipated by Stam (US 2003/0107323). This rejection should not be held as valid since the present application has and earlier priority date than does the cited reference. No evidence has been provided that the art in Stam (US 2003/0107323) is entitled to the priority date of provisional application 60/339,762 (Stam) filed on December 10, 2001 and which formed the basis of the Final Office Action Rejection of All Claims.

(iv)Rejections under 35 U.S.C. 103

Not Applicable

(v)Rejections other than under paragraphs ©(8)(i) to (iv)

Not Applicable

9) Appendix including a list of claims

Claims

The following claims 58 through 77 have been rejected and their examination are hereby appealed to the Board of Patent Appeals and Interferences of the US Patent Office.

Claims: What is claimed:

58. (Appealed) A method of producing concurrent higher intensity illumination sectors where no vehicles are present and at least one lower intensity illumination sector where a first sensed vehicle is present comprising the steps of,
providing a vehicular headlight system adapted to direct at least two distinct illumination intensities toward each of a plurality of individually controlled illumination sectors,
providing a vehicle sensor for sensing where said first sensed vehicle is present,
providing at least one controlled light modulator within said vehicular headlight system,
providing a controller which uses input from said vehicle sensor to control said at least one controlled light modulator within said vehicular headlight system,
whereby said controller causes said at least one controlled light modulator to direct a lower intensity illumination toward a sector where said first sensed vehicle's presence is sensed and whereby said vehicular headlight system concurrently directs higher intensity illumination toward at least one sector to the right side of said sensed vehicle and directs higher intensity illumination toward at least one sector to the left side of said sensed vehicle.

59. (Appealed) The method of producing concurrent higher intensity illumination sectors where no vehicles are present and at least one lower intensity illumination sector where a first sensed vehicle is present of claim 58 wherein said vehicle sensor senses a second sensed vehicle and said controller causes said vehicular headlight system to direct low intensity illumination towards said second sensed vehicle while concurrently directing high intensity illumination between said first sensed vehicle and said second sensed vehicle.

60. (Appealed) The method of producing concurrent higher intensity illumination sectors where no vehicles are present and at least one lower intensity illumination sector where a first sensed vehicle is present of claim 58 wherein said at least one controlled light modulator within said vehicular headlight system comprises at least one element selected from the group consisting of; illumination emitter, illumination filter, and illumination steerer.

61. (Appealed) The method of producing concurrent higher intensity illumination sectors where no vehicles are present and at least one lower intensity illumination sector where a first sensed vehicle is present of claim 58 wherein a first plurality of independently controlled light modulators are provided within said vehicular headlight system which are individually controlled to each direct a lower intensity illumination toward said first sensed vehicle.

62. (Appealed) The method of producing concurrent higher intensity illumination sectors where no vehicles are present and at least one lower intensity illumination sector where a first sensed vehicle is present of claim 61 wherein a second plurality of independently controlled light modulators are provided within said vehicular headlight system which are controlled to each direct a higher intensity illumination toward the right side of said sensed vehicle and concurrently a third plurality of independently controlled light modulators are provided within said vehicular headlight system which are controlled to each direct a higher intensity illumination toward the left side of said sensed vehicle.

63. (Appealed) The method of producing concurrent higher intensity illumination sectors where no vehicles are present and at least one lower intensity illumination sector where a first sensed vehicle is present of claim 61 wherein said first plurality of independently controlled light modulators within said vehicular headlight system comprises at least one element selected from the group consisting of; illumination emitter, illumination filter, and illumination steerer.

64. (Appealed) The method of producing concurrent higher intensity illumination sectors where no vehicles are present and at least one lower intensity illumination sector where a first sensed vehicle is present of claim 61 wherein at least one headlight is provided and wherein said first plurality of independently controlled light modulators within said vehicular headlight system are within said headlight.

65. (Appealed) The method of producing concurrent higher intensity illumination sectors where no vehicles are present and at least one lower intensity illumination sector where a first sensed vehicle is present of claim 58 wherein a first headlight comprising at least two illumination filtering elements is provided and each of said filtering elements are individually controllable with regard to the selection of what intensity of illumination incident thereon, is passed coherently therethrough.

66. (Appealed) The method of producing concurrent higher intensity illumination sectors where no vehicles are present and at least one lower intensity illumination sector where a first sensed vehicle is present of claim 58 wherein a first headlight comprising at least two illumination steering elements is provided and each of said steering elements are individually controllable with regard to the selection of which direction to steer at least a portion of the illumination incident thereon.

67. (Appealed) The method of producing concurrent higher intensity illumination sectors where no vehicles are present and at least one lower intensity illumination sector where a first sensed vehicle is present of claim 58 wherein a first headlight comprising at least two illumination emitting elements is provided and each of said illumination emitting elements are individually controllable with regard to the selection of which intensity of illumination is emitted therefrom.

68. (Appealed) A vehicle headlight illumination apparatus adapted to direct at least two distinct illumination intensities toward each of a plurality of individually controlled illumination sectors comprising,
a first vehicle headlight,
a vehicle sensor for sensing where a first sensed vehicle is present,
at least one controlled light modulator within said vehicle headlight,

a controller which uses input from said vehicle sensor to control said at least one controlled light modulator within said vehicle headlight,
whereby said controller causes said at least one controlled light modulator to direct a lower intensity illumination toward a sector where said first sensed vehicle's presence is sensed and whereby said vehicular headlight system concurrently directs higher intensity illumination toward at least one sector to the right side of said sensed vehicle and directs higher intensity illumination toward at least one sector to the left side of said sensed vehicle.

69. (Appealed) The vehicle headlight illumination apparatus adapted to direct at least two distinct illumination intensities toward each of a plurality of individually controlled illumination sectors of claim 68 wherein said vehicle sensor senses a second sensed vehicle and said controller causes said vehicular headlight system to direct low intensity illumination towards said second sensed vehicle while concurrently directing high intensity illumination between said first sensed vehicle and said second sensed vehicle.

70. (Appealed) The vehicle headlight illumination apparatus adapted to direct at least two distinct illumination intensities toward each of a plurality of individually controlled illumination sectors of claim 68 wherein said at least one controlled light modulator within said vehicular headlight system comprises at least one element selected from the group consisting of; illumination emitter, illumination filter, and illumination steerer.

71. (Appealed) The vehicle headlight illumination apparatus adapted to direct at least two distinct illumination intensities toward each of a plurality of individually controlled illumination sectors of claim 68 comprising a first plurality of independently controlled light modulators within said vehicular headlight system which are individually controlled to each direct a lower intensity illumination toward said first sensed vehicle.

72. (Appealed) The vehicle headlight illumination apparatus adapted to direct at least two distinct illumination intensities toward each of a plurality of individually controlled illumination sectors of claim 71 comprising a second plurality of independently controlled light modulators within said vehicular headlight system which are controlled to each direct a higher intensity illumination toward the right side of said sensed vehicle and comprising a third plurality of independently controlled light modulators within said vehicular headlight system which are controlled to each direct a higher intensity illumination toward the left side of said sensed vehicle.

73. (Appealed) The vehicle headlight illumination apparatus adapted to direct at least two distinct illumination intensities toward each of a plurality of individually controlled illumination sectors of claim 71 wherein said first plurality of independently controlled light modulators within said vehicular headlight system comprises at least one element selected from the group consisting of; illumination emitter, illumination filter, and illumination steerer.

74. (Appealed) The vehicle headlight illumination apparatus adapted to direct at least two distinct illumination intensities toward each of a plurality of individually controlled illumination sectors of claim 71 wherein said first plurality of independently controlled light modulators within said vehicular headlight system are within a single headlight.

75. (Appealed) The vehicle headlight illumination apparatus adapted to direct at least two distinct illumination intensities toward each of a plurality of individually controlled illumination sectors of claim 68 wherein said vehicular headlight system comprises at least one headlight which contains at least two illumination filter elements, each of said filter elements being individually controllable with regard to the selection of what intensity of illumination incident thereon, is passed coherently therethrough.

76. (Appealed) The vehicle headlight illumination apparatus adapted to direct at least two distinct illumination intensities toward each of a plurality of individually controlled illumination sectors of claim 68 wherein said vehicular headlight system comprises at least one headlight which contains at least two illumination steering elements, each of said steering elements being individually controllable with regard to the selection of which direction to steer at least a portion of the illumination incident thereon.

77. (Appealed) The method of producing concurrent higher intensity illumination sectors where no vehicles are present and at least one lower intensity illumination sector where a first sensed vehicle is present of claim 68 wherein said vehicular headlight system comprises at least one headlight which contains at least two illumination emitting elements and each of said illumination emitting elements are individually controllable with regard to the selection of which intensity of illumination is emitted therefrom.

Very Respectfully Submitted,

Ray M. Alden
Applicant Pro Se
808 Lake Brandon Trail
Raleigh, NC 27610
Tel (919) 231-4418

Sent via express mail #
(ER960927009US)

GENTEX CORPORATION

A Smarter Vision®

September 17, 2002

Mr. Ray Alden
808 Lake Brandon Trail
Raleigh, NC 27610

Dear Mr. Alden:

I apologize for the delay in responding to the invention information you sent to Gentex for evaluation. We received it at an unusually busy time, and the technical staff that needed to review the information was tied up until a week or so ago.

In any event, they have reviewed the information you provided and have determined the following: 1) it's an interesting, futuristic technology, but they believe that it is probably a number of years away from any practical use, 2) it's difficult to evaluate your technology until we see an actual patent and the resulting claims. If you get a patent and want to share that with us after it's granted, we'll review it at that time and would be in a better position to render an opinion.

We do offer our best wishes for your success.

Sincerely,

Connie Hamblin, Corporate Secretary and
Director – Corporate Communications

600 N. Centennial St. • Zeeland, MI 49464 • PHONE: 616-772-1800 • FAX: 616-772-7348 • http://www.gentex.com

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No exception to this Policy may be made other than in a formal written contract signed by an executive officer of the Company.

Brief description of Submission: Segmented Beam Automotive Headlamp System. Enables headlights to concurrently have dim segments - where other vehicles are present in one or more zones and to have bright segments - where no other vehicles are present in one or more zones. Thus the driver of an equipped vehicle retains bright beams in all segments except in a segment where a vehicle is present.

Jane 20, 2002

Date

Signature of Person Making Submission

808 Lake Brandon Trail

Address

Raleigh NC 27610

City, State, Zip

919 523-2902

Phone

16 pages specification
11 pages drawings
via USPS express
EU 423629299 US